

**BID FORM AND BID FORM ATTACHMENTS**

73,106,728.00

PC-748

**BID FORM**

**AND**

**BID FORM ATTACHMENTS**

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## SECTION 00300 BID FORM FOR CONTRACT No. PC-748

OWNER - CITY OF DETROIT, MICHIGAN

WORK - BABY CREEK CSO CONTROL FACILITY

CONTRACT NO. - PC-748

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## ARTICLE 1 THIS BID IS SUBMITTED TO THE CITY OF DETROIT, MICHIGAN ("the Owner")

1.1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the Owner on the form in Section 00500 (Form of Agreement) and to perform and furnish all Work as specified or indicated in the Bidding Documents for the Bid prices in the "Bid Schedule" on this Bid Form, within the Contract Times specified in the Agreement, and in accordance with all the provisions and terms and conditions of the Bidding Documents, including, without limitation, those dealing with the disposition of the Bid Security.

DETROIT WATER & SEWERAGE DEPARTMENT  
MODELDeveloped from FORMSPEC<sup>3</sup> Michigan Model

1.2. This Bid will remain open for acceptance by the Owner as specified in the Advertisement, Section 00030. The Bidder will deliver the signed triplicate originals of the Agreement, the executed Performance and Payment Bond and appropriate evidence of insurance within the times and the manner specified in the Bidding Documents.

## ARTICLE 2 THE BIDDER'S REPRESENTATIONS

2.1. The Bidder has examined the Bidding Documents, including the Addenda acknowledged in the table below. The Bidder has verified that the Addenda acknowledged below include all issued Addenda. Failure by the Bidder to acknowledge receipt of all Addenda correctly, by either failing to complete or incorrectly completing the table below, shall justify the Owner's refusal to read the Bid and automatically disqualify the Bidder from any consideration for the award of the Contract.

No. 1 Dated 10/17/02 No. 4 Dated 12/20/02

No. 2 Dated 11/13/02 No. 5 Dated 1/23/03

No. 3 Dated 12/5/02 No. 6 Dated 1/23/03

2.2. The Bidder has (a) familiarized itself with the Work, site and locality; The Detroit City Code and all other applicable Federal, State and other local Laws; all general, local and prevailing conditions that may in any manner affect cost, schedule, progress, performance or furnishing of the Work; and the terms and conditions of the Bidding Documents; and (b) carefully correlated the Bidder's observations with the Bidding Documents.

2.3. The Bidder has studied carefully all reports of subsurface conditions and drawings of physical conditions of existing surface and subsurface facilities that have been used by the Engineer and all documents of physical conditions of existing Underground Utilities identified in Section 00210. The Bidder assumes responsibility for carefully and accurately locating existing Underground Utilities (in accordance with MCL 460.701 et seq. and Section 00700, Article 4). The Bidder accepts the determinations set forth in the Bidding Documents of the extent of the technical data and Underground Utility information and data contained in those reports, drawings or the Bidding Documents, upon which the Bidder may rely.

2.4. The Bidder has obtained and carefully studied, or assumes responsibility for obtaining and carefully studying, all such additional reports of explorations and tests of subsurface conditions and information and data about surface or subsurface facilities and/or Underground Utilities that may affect cost, schedule, progress, performance or furnishing of the Work as the Bidder considers necessary for the performance and furnishing of the Work at the Contract Price, within the Contract time, and in accordance with the other terms and conditions of the Bidding Documents. The Bidder expressly agrees to perform and furnish the Work, in accordance with the Bidding Documents, at no increase in Contract Price and within the Contract Time, regardless of whether or not the Bidder subsequently obtains and studies any additional reports or information and data, in addition or to supplement those reports and information and data identified in Section 00210.

2.5. The Bidder has carefully correlated the results of its observations, examinations and studies of those reports of explorations and all that information and data in studies, drawings and specifications, referred to in paragraphs 2.3 and 2.4, with terms and conditions of the Bidding Documents.

2.6. The Bidder has examined all information and data shown or indicated in the Bidding Documents concerning other work performed by other parties under contracts with the Owner, including, but not limited to provisions in the General Conditions. The Bidder assumes responsibility for all reasonably foreseeable terms, conditions and consequences resulting from other work that may in any manner affect cost, schedule, progress, performance or furnishing the Work.

2.7. The Bidder has carefully examined the terms and conditions of the General Conditions, Section 00700, and the other Bidding Documents concerning delay, and the Bidder accepts determinations set forth in the General Conditions that no delay shall be unreasonable under the circumstances, except as provided in paragraph 8.8.4, paragraph 8.9 and paragraph 10.4.2 of the General Conditions. The Bidder has correlated those terms and conditions with the Bidder's schedule for executing the Work and Bidder's Bid.

2.8. The Bidder represents that each unit price covering specified or contingent Unit Price Work, whether bid on the Bid Schedule or on the Schedule of Change Order Prices, includes sufficient amounts to cover (a) all labor, Subcontractor, materials and/or equipment, construction equipment and supplemental costs, and (b) all administrative costs and profit.

2.9. The Bidder has given the Engineer written notice of all conflicts, ambiguities, errors or omissions the Bidder has discovered in the Bidding Documents, and the written resolution given by the Engineer is acceptable to the Bidder.

2.10. The Bidder has carefully examined the Owner's Local Contracting requirements, assumes responsibility for all conditions and consequences that may result from meeting those requirements and that may in any manner

affect cost, schedule, progress, performance and furnishing of the Work.

2.11. This Bid is genuine, is not made in the interest of or on behalf of any undisclosed person, it is not submitted in conformity with any agreement or rules of any group, association, organization or corporation. To induce the Owner into consideration of this Bid, the Bidder reiterates and makes each of the representations made in the Noncollusion Affidavit, Section 00320, executed by the Bidder and included with the Bid.

2.12. The Bidder has studied each provision of the Bidding Documents. The Bidder has no expectations different from the terms and conditions of the Bidding Documents.

### ARTICLE 3 TIME OF COMPLETION

3.1. The Contract Times are specified in paragraph 3.1 of the Agreement, Section 00500. The Bidder has carefully correlated the provisions in paragraph 3.1 of the Agreement with the other terms and conditions of the Bidding Documents and unequivocally accepts the Contract Times for the Work, and other designated parts of the Work, as specified.

3.2. The Bidder unequivocally accepts the liquidated damage provisions specified in paragraph 3.2 of the Agreement in the event of any failure, neglect or refusal to complete the Work, or designated part of the Work, within the corresponding Contract Times specified in paragraph 3.1 of the Agreement.

### ARTICLE 4 ATTACHMENTS INCLUDED WITH THIS BID

4.1. Attachments to this Bid Form (Section 00300) and made a condition of this Bid are:

4.1.1. Evidence of Authority to Sign the Bid.

4.1.2. Bid Bond (Section 00310), including Certified Copy of Power of Attorney and surety's evidence of license to do Business in Michigan from the State Insurance Bureau, or alternate Bid Security, including required certification.

4.1.3. Noncollusion Affidavit (Section 00320).

4.2. Bidder-provided documents, made a condition of this Bid, are as required in the following Section(s) of the Bidding Documents: \_\_\_\_\_

### ARTICLE 5 DEFINED TERMS

5.1. Defined terms used in this Bid Form, Section 00300, the Bid Form Attachments, Sections 00305 through 00320, and the Qualification Submittal, Sections 00410 through 00460, have specific intent and meanings assigned, as stated in the Glossary, Section 00780.

**ARTICLE 6 BID SCHEDULE**

**6.1 Bid Schedule** - The Bidder will complete the Work and accept in full payment, for the Work items listed, the following unit prices and/or Bid Prices, as applicable:

Bid Item No.	Bid Quantity	Description (Bidder to write price in words)	Unit Price	Bid Price
<b>A. - LUMP SUM ITEM</b>				
6.1.1	L.S.	The lump sum price for item 6.1.1 shall constitute full compensation for the work as specified and shown in the Bidding Documents for the Baby Creek Pilot CSO Control Facility, complete, except that work including for payment under items 6.1.2, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 6.1.8, 6.1.9, and 6.1.10	<del>50,400.00</del> \$50,301.00 <sup>00</sup>	<del>50,300.00</del> \$50,300.00 <sup>00</sup>
6.1.2	L.S.	Mobilization shall constitute full payment for the Contractor's mobilization on to and demobilization off of the project site	\$560,000 <sup>00</sup>	\$560,000 <sup>00</sup>
<b>B. - UNIT PRICE ITEMS</b>				
6.1.3	30,000 Tons	Testing, removal, dewatering, transport and type II Landfill disposal of sludge deposits from exiting conveyance conduits and structures	\$94 <sup>90</sup>	\$2,847,000 <sup>00</sup>
6.1.4	20,000 CY	Testing, dislodging, and washing of sludge deposits from the existing enclosure into the Oakwood Interceptor	\$94 <sup>90</sup>	\$1,898,000 <sup>00</sup>

**NOTE 1:** The Unit Prices for Bid items 6.1.3 and 6.1.4 shall include all costs to complete the Work as described in the Bidding Documents and shall include all overhead profit, general conditions, and sales tax.

**NOTE 2:** The Bidder shall include the excavation, transport, and type II Landfill disposal of all other contaminated material encountered in performing the Work in the Bid item 6.1.1.

Bid Item No.	Bid Quantity	Description (Bidder to write price in words)	Bid Price
<b>C. - PRE-NEGOTIATED EQUIPMENT</b>			
6.1.5	L.S.	Furnish and deliver chemical induction units and other services described in Section 11261 and in the US Filter/Stranco proposal for the lump sum of:	\$ 941,728.00

**NOTE:** The Pre-Negotiated Equipment Price(s) for bid item 6.1.5 include all costs to furnish and deliver the equipment and provide other services, as described in the Bidding Documents. The Bidder shall include all handling storage, installation, overhead, profit general conditions, sales tax, profit, and any other costs related to performing Bid Item 6.1.5 under Bid item 6.1.1.

## ARTICLE 6 BID SCHEDULE (continued)

Bid Item No.	Description	Allowance
<b>D. - ALLOWANCES</b>		
6.1.6	Cash Allowance for Control Building	\$ 250,000.00
6.1.7	Cash Allowance for Utilities	\$ 500,000.00
6.1.8	Provisionary Allowance for Unseen Conditions	\$ 5,000,000.00
6.1.9	Provisionary Allowance for Patton Park Improvements	\$ 10,000,000.00
6.1.10	Cash Allowance for Odor Control System Permit	\$ 10,000.00
6.1.11	Provisionary Allowance for O&M Changes	\$ 800,000.00

**TOTAL FOR ALL ALLOWANCES** **\$16,560,000.00**

**TOTAL PROJECT COSTS (ITEMS 6.1.1 - 6.1.11)** **\$ 73,166,728**

Bid (Sum of: A. Lump Sum, B. Unit Price, C. Pre-Negotiated Equipment and D. Allowance Sections):

Seventy Three million, one hundred  
Six thousand Seven hundred  
Twenty Eight (use words)

Dollars and No/Cents \$

73,206,728  
(in figures)

Name of the Bidder Walbridge Aldinger Co.

Contract No. PC-748

7.1 The Bidder shall use this "Schedule of Change Order Prices" to propose contingent prices which, if acceptable to the Owner and added to the Contract Documents, will be used by the Owner and the Bidder, if awarded the Contract, to price the Work involved in a Change Order or Change Authorization. These Change Order prices will not affect determination of the lowest Bid.

Item No.	Units or Quantity	Description (Bidder to write price in words)	Bidder's Bid Price	Price Proposed By the Owner
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Name of the Bidder \_\_\_\_\_ Contract No. PC-748

Rev. 2.2 (4/15/94)

**8.6. If The Bidder is A Joint Venture:** JOINT VENTURE SIGNATURES SHALL BE AS PROVIDED IN PARAGRAPH 10.5 OF THE INSTRUCTIONS TO BIDDERS. EACH JOINT VENTURER SIGNING THE BID SHALL SIGN IN THE MANNER INDICATED FOR INDIVIDUALS, PARTNERSHIP OR CORPORATIONS. IF MORE THAN TWO JOINT VENTURERS OF THE SAME TYPE, USE ADDITIONAL PAGES. JOINT VENTURE STATE OF INCORPORATION \_\_\_\_\_ OR COUNTY OF REGISTRATION \_\_\_\_\_.

Name of Individual: \_\_\_\_\_

Name &amp; Title of Person Authorized to Sign: \_\_\_\_\_

By: \_\_\_\_\_  
(If not the Individual, Attach Power of Attorney)

Doing Business as: \_\_\_\_\_

Business Address: \_\_\_\_\_

Country of Registration: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

Name of Individual: \_\_\_\_\_

Name &amp; Title of Person Authorized to Sign: \_\_\_\_\_

By: \_\_\_\_\_  
(If not the Individual, Attach Power of Attorney)

Doing Business as: \_\_\_\_\_

Business Address: \_\_\_\_\_

Country of Registration: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

By: \_\_\_\_\_  
(True Name of Partnership)

General or Managing Partner Authorized to Sign

By: \_\_\_\_\_  
(Attach evidence of Authority to sign)

Business Address: \_\_\_\_\_

County of Registration: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

By: \_\_\_\_\_  
(True Name of the Partnership)

General or Managing Partner Authorized to Sign

By: \_\_\_\_\_  
(Attach evidence of Authority to sign)

Business Address: \_\_\_\_\_

County of Registration: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

By: \_\_\_\_\_  
(Legal Corporation Name)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_  
(Attach Evidence of Authority to Sign)

Name &amp; Title of Officer Attesting: \_\_\_\_\_

By: \_\_\_\_\_

Business Address: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

By: \_\_\_\_\_  
(Legal Corporation Name)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_  
(Attach Evidence of Authority to Sign)

Name &amp; Title of Officer Attesting: \_\_\_\_\_

By: \_\_\_\_\_

Business Address: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_



**CERTIFICATE OF PRINCIPAL  
(BIDDER)**

\_\_\_\_\_, certify that I am the Secretary of the Corporation <sup>XX</sup> or a General Partner \_\_\_\_ or Managing Partner \_\_\_\_ of the partnership, named as the Bidder in the attached Bid Form; that who signed the Bid Form on behalf of the Bidder, was then Assistant V.P. of that organization <sup>XX</sup> or partnership \_\_\_\_; that I know the undersigned's signature, and the signature is genuine; and that the Bid Form was duly signed, sealed, and attested for and on behalf of that organization <sup>XX</sup> or partnership \_\_\_\_ by authority of its governing body <sup>X</sup> or partners \_\_\_\_.

Signed by the Secretary or Other Authorized Officer of the Corporation  
or By General or Managing Partner Certifying

Walbridge Aldinger Company  
Name of the Corporation or True Name of the Partnership

(Corporate Seal)

**VERIFICATION  
(BIDDER)**

STATE OF MICHIGAN       )  
                                      )  
COUNTY OF Wayne       )

Before me, a Notary duly commissioned, qualified and acting, personally appeared (enter name of person who signed the Bid Form on behalf of the Bidder), Scott Penrod to me well known to be the person described in and who signed the Bid Form, who being by me first duly sworn upon oath, says that he/she is the attorney-in-fact for (enter the Bidder's name) Walbridge Aldinger Company and that he/she has been authorized by (enter name of individual, partnership name, or that governing body of the Bidder named in the attached corporate resolution to execute the attached Bid Form on behalf of the named Bidder in favor of the **CITY OF DETROIT, MICHIGAN**.

Subscribed and sworn before me this 6<sup>th</sup> day of February, 2003

NOTARY PUBLIC WAYNE CO., MI  
MY COMMISSION EXPIRES Mar 11, 2007

Notary, State of Michigan

My Commission Expires: March 11, 2007

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## RESOLUTION OF CORPORATE AUTHORITY

**(If Bidder is a Corporation)**

I, \_\_\_\_\_, Corporate Officer of Walbridge Aldinger Company, (Print or type)

a Michigan corporation (the "Company")  
(Indicate State)

DO HEREBY CERTIFY that the following is a true and correct excerpt from the minutes of the meeting of the Board of Directors, wherein a quorum was present, duly called and held on various dates and that the same is now in full force and effect:

"RESOLVED, that the Chairman, the President, each Vice President, the Treasurer, and the Secretary and each of them, hereby is authorized to execute and deliver, in the name and on behalf of the Company and under its corporate seal or otherwise, any agreement or other instrument or document in connection with any matter or transaction that shall have been duly approved; the execution and delivery of any agreement, document, or other instrument, or document in connection with any matter or transaction that shall have been duly approved; the execution and delivery of any agreement, document, or other instrument by any of such officers to be conclusive evidence of such approval."

I FURTHER CERTIFY that [REDACTED] is Chairman of the Board, [REDACTED] is President, [REDACTED] is Treasurer, and [REDACTED] is Secretary.

I FURTHER CERTIFY that any of the officers of the Company named in this Resolution of Corporate Authority are authorized to execute or guarantee and commit the Company to the conditions, obligations, stipulations and undertakings contained in the Bidding Documents for Contract No. PC-748, Baby Creek CSO Control Facility and that all necessary corporate approvals have been obtained in relationship thereto.

IN WITNESS THEREOF, I have set my hand this 6th day of February, 2003.

**CORPORATE SEAL**

**Corporate Officer's Signature**

Secretary & Corporate Counsel Walbridge Aldinger Company

**Title**

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**CERTIFICATE OF PARTNERSHIP AUTHORITY**

(If Bidder is a Partnership)

I, \_\_\_\_\_, General Partner in \_\_\_\_\_,  
(Print or type)

a \_\_\_\_\_ partnership (the "Partnership")  
(Indicate County and State)

DO HEREBY CERTIFY that I am a General Partner in the Partnership formulated pursuant to a Partnership Agreement dated \_\_\_\_\_, 20\_\_\_\_, and that the following is a true and correct excerpt from the minutes of the meeting of the General Partnership held on \_\_\_\_\_ and that the same is now in full force and effect:

"That each General Partner is authorized to execute and deliver, in the name and on behalf of the Partnership, any agreement or other instrument or document in connection with any matter or transaction that shall have been duly approved; the execution and delivery of any agreement, document, or other instrument, or document in connection with any matter or transaction that shall have been duly approved; the execution and delivery of any agreement, document, or other instrument by a General Partner to be conclusive evidence of such approval."

I FURTHER CERTIFY that any of the aforementioned General Partners of the Partnership are authorized to execute or guarantee and commit the assets of the Partnership to the conditions, obligations, stipulations and undertakings contained in the Bidding Documents for Contract No. \_\_\_\_\_ and that all necessary approvals have been obtained in relationship thereto.

IN WITNESS THEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
General Partner's Signature

**END OF SECTION 00300**

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SECTION 00305 FINANCE DIRECTIVE NO. 134/EXECUTIVE ORDER NO. 4 INFORMATIONLOCAL CONTRACTS

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OWNER - CITY OF DETROIT, MICHIGAN  
WORK - BABY CREEK CSO CONTROL FACILITY  
CONTRACT NO - PC-748

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The attached Finance Directive No. 134/Executive Order No. 4, re: "Utilization of Detroit-Based Businesses and Small Businesses" is to be completed and submitted with each Contractor's bid. Failure to do so is grounds for disqualification.

**FINANCE DIRECTIVE NO. 134/**  
**EXECUTIVE ORDER NO. 4**

## FINANCE DIRECTIVE NO. 134

**TO: ALL BOARDS, COMMISSIONS, DEPARTMENT HEADS  
AND ELECTED OFFICIALS**

**FROM: [REDACTED]  
DIRECTOR, FINANCE DEPARTMENT**

**RE: ADMINISTRATIVE GUIDELINES FOR IMPLEMENTING  
EXECUTIVE ORDER NO. 4**

**DATE: JANUARY 18, 1995**

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## INTRODUCTION

On October 28, 1994, Mayor [REDACTED] issued Executive Order No. 4, which targets thirty percent (30%) of the total dollar value of all contracts let by the City to Detroit-based businesses and small businesses. Acknowledging that the ability of individual City departments and agencies to achieve this goal may vary as a function of the types of goods or services required and the availability of local and/or small businesses to perform any given contract, Executive Order No. 4 does not require that thirty percent (30%) of each City contract be awarded to Detroit-based businesses and/or small businesses. Rather, Executive Order No. 4 permits the individual departments and agencies to identify those contracts and subcontracting opportunities, in whole or in part, that are to be included in the Detroit-based Businesses and Small Businesses Program (hereinafter "DSBP").

This Finance Directive establishes the administrative guidelines for implementation of Executive Order No. 4 with regard to construction contracts, purchase contracts and imprest cash purchases. The application of Executive Order No. 4 to professional services contracts shall be the subject of a separate Finance Directive.

This Finance Directive shall be conditionally implemented pending the public hearing required by Section 2-111 of the Detroit City Charter and the adoption of permanent guidelines following that hearing.

## 1.0 DEFINITIONS

For the purposes of this Finance Directive, the following terms have the meanings specified below:

- 1.01 *Affiliate* means any *business*, including, but not limited to, a *parent business*, *subsidiary business* or a *sibling business*, that has any of the following relationships to another *business*:
- (a) Directly or indirectly owns or holds with power to vote, five percent (5%) or more of the outstanding voting securities of such other *business*;
  - (b) Five percent (5%) or more of whose outstanding voting securities are directly or indirectly owned or held with power to vote by such other *business*; or
  - (c) Directly or indirectly controlling, controlled by, or under common control with such other *business*. For the purposes of this Subsection, the term "control" means the power to exercise a controlling influence over the management policies of a *business*.
- 1.02 *Book type contract* shall mean a contract for construction that includes extensive technical specifications that are bound together in a book.

- 1.03 Business shall mean any association, cooperative, corporation, individual, joint venture, partnership, sole proprietorship or other legal entity.
- 1.04 City shall mean the City of Detroit, Michigan.
- 1.05 Contract Compliance Division ("CCD") shall mean the Contract Compliance Division of the *Human Rights Department*.
- 1.06 Contracting department shall mean a *City* department or a *City* agency for which any of the following are sought: construction contract, *purchase contract* or imprest cash purchase.
- 1.07 Detroit-based business ("DBE") shall mean a *business* having a physical and economic relationship to the *City* determined by the payment of the following for not less than one (1) taxable year immediately prior to the date of application for DSBP certification: *City* income taxes on the *business*' net profits; *City* excise taxes; and *City* property taxes on a plant or an office and equipment such as is ordinarily required for the performance of the contract bid upon or on other real or personal property in the *City* equivalent in value to such plant or office and equipment.

To be certified as "Detroit-based," pursuant to Section 2.0 of this Finance Directive, a *business* shall satisfy the definition included in the first paragraph of this Subsection as well as two (2) of the criteria listed below:

- (a) Verification that an existing inventory of the product(s) the *business* proffers to the *City* is physically located within the corporate limits of the *City*;
  - (b) Verification of the *business*' ability to service/repair products to be sold to the *City* at a site located within the corporate limits of the *City*;
  - (c) References, licenses or other means of verification acceptable to the *City* that service(s) the *business* proffers to the *City*, if awarded a contract, have been provided for at least one (1) year prior to the date of application as Detroit-based;
  - (d) Verification that a majority (51%) of the full-time employees, chief officers and managers of the *business* regularly work and conduct *business* in the *City*; or
  - (e) Verification that a majority (51%) of the employees based at the *business*' *City* location(s) shall be residents of the *City*.
- 1.08 General construction business shall mean a *business* that (a) is a general contractor for any of the following: industrial buildings, residential buildings, single family houses or warehouses or (b) performs heavy construction which includes, but is not limited to, the

following: bridges, communications lines, elevated highways, highways, pipelines, power lines, sewer lines, streets, tunnels or water lines.

- 1.09 Human Rights Department shall mean the Human Rights Department of the *City*.
- 1.10 Human Rights Director shall mean the Director of the *Human Rights Department*.
- 1.11 Invitation for bids shall mean the complete assembly of related documents, whether attached or incorporated by reference, furnished to prospective bidders for the purpose of bidding.
- 1.12 Purchase contract shall mean a contract for the purchase of goods, as that term is defined by Article 2 of the Uniform Commercial Code, M.C.L. § 440.2105(1).
- 1.13 Purchasing Director shall mean the Director of the *Purchasing Division*.
- 1.14 Purchasing Division shall mean the Purchasing Division of the Finance Department of the *City*.
- 1.15 Small business ("SBE") shall mean a *business* that is certified as a small *business* pursuant to Section 2.0 of this Finance Directive. A small *business* shall be independently owned and operated and shall not be one of the recognized leaders or dominant firms in its field of operation. A *business* is not a "dominant firm in its field of operation" when it does not exercise a controlling or major influence in a kind of commercial activity in which a number of *businesses* are primarily engaged.

Below listed are the size limitations for *small businesses* in various fields of operation. The amount of annual receipts or the number of employees indicates the maximum permitted for a *business* (including *affiliates*) to be considered small. The term "*affiliate*" is defined above in Subsection 1.01. These size limitations are based on the federal Small Business Administration's regulations, 13 C.F.R. § 121.601 (1994) and the revisions thereto, 59 Fed. Reg. at 16,513 (1994).

- (a) General construction business whose average annual gross receipts have not exceeded seventeen million dollars (\$17,000,000) in the three (3) fiscal years preceding the date of application;
- (b) Manufacturing business which has provided full-time employment to not more than five hundred (500) persons in the three (3) fiscal years preceding the date of application;
- (c) Service business whose average annual gross receipts have not exceeded five million dollars (\$5,000,000) in the three (3) fiscal years preceding the date of application;
- (d) Specialty construction business whose average annual gross receipts have

not exceeded seven million dollars (\$7,000,000) in the three (3) fiscal years preceding the date of application;

(e) Retail business whose average annual gross receipts have not exceeded five million dollars (\$5,000,000) in the three (3) fiscal years preceding the date of application; and

(f) Wholesale business which has provided full-time employment to not more than one hundred (100) persons in the three (3) fiscal years preceding the date of application.

1.16 Specialty construction business shall mean a *business* that performs any of the following: carpentry; concrete work; electrical work; excavation work; floor laying; glass and glazing work; heating, ventilation and air conditioning; installation or erection of building equipment; masonry, stone setting and other stone work; painting and paper hanging; plastering, drywall, acoustical and insulation work; plumbing; roofing, siding and sheet metal work; structural steel erection; terrazzo, tile, marble and mosaic work; water well drilling; or wrecking and demolition work; as well as other categories of specialty construction as may be identified by the *Purchasing Division*.

1.17 Subcontract shall mean a written agreement between a *subcontractor* and a contractor, pursuant to which the *subcontractor* will provide to the contractor equipment, goods, materials, services or supplies.

1.18 Subcontractor shall mean a *business* providing equipment, goods, materials, services or supplies to a contractor.

## 2.0 CERTIFICATION PROCEDURES

2.01 A business may apply for certification as a DBE, an SBE or both.

2.02 Only one application per year. A *business* may file with the *CCD* only one (1) application for certification every twelve (12) months. The *CCD* shall reject any application that is filed less than twelve (12) months after the date of the applicant *business*' previous application.

2.03 The *CCD* shall have the duty to certify businesses for the DSBP. The *CCD* shall determine whether an applicant *business* satisfies the prerequisites for certification as a *DBE* and/or an *SBE*.

(a) The *CCD* shall prescribe the form of *DSBP* application, which also shall identify the supporting materials (e.g., tax filings, articles of incorporation and licenses) that a *business* is required to submit for certification in each *DSBP* certification category (i.e., whether the applicant *business* is a *DBE* and/or an *SBE*).

(b) *DSBP* application forms shall be available in the offices of the *CCD*. *DSBP* application forms will also be distributed by the *CCD* to contracting departments.

(c) If the *CCD* concludes that an applicant *business* qualifies as a *DBE* and/or an *SBE*, then it shall issue a "Notice of *DSBP* Certification" that includes the following:

(i) The inception date of the certification;

(ii) The expiration date of the certification;

(iii) The *DSBP* certification category (i.e., whether the applicant *business* is a *DBE* and/or an *SBE*); and

(iv) The *Purchasing Division* Commodity Code names and numbers for the goods and services for which the applicant *business* has received certification. The *Purchasing Division* Commodity Code Catalog is attached as Exhibit "A" hereto.

If an applicant *business* has been certified as both a *DBE* and an *SBE*, then the *CCD* is to specify in the "Notice of *DSBP* Certification" the *Purchasing Division* Commodity Code names and numbers that pertain to each *DSBP* certification category.

(d) If the *CCD* determines that an applicant *business* does not satisfy the applicable requisites, then it shall issue a "Denial of *DSBP* Certification" that explains the *CCD*'s reasons for its conclusion and that offers the applicant *business* the opportunity to discuss informally with the *CCD* the denial. The procedure for appealing from a "Denial of *DSBP* Certification" is described in Subsection 2.09 of this Finance Directive.

(e) Within seven (7) calendar days of the date of its decision, the *CCD* shall mail to the applicant *business* one of the notices described in Subsections 2.03(c) and 2.03(d) by Certified Mail, Return Receipt Requested.

2.04 The *CCD* is to follow up on incomplete files. If an applicant *business*' file is not complete within thirty (30) calendar days of an applicant *business*' initial submission, then the *CCD* shall write to that *business* to obtain the remaining information. If the applicant *business* does not provide the requested information within thirty (30) calendar days of the date of the *CCD*'s request, then the *CCD* may in its sole discretion deem the application abandoned. The *CCD* may close abandoned files.

2.05 *SBE* certifications from other governmental agencies. If, within the twelve (12) months prior to submitting a *DSBP* application, an applicant *business* has been certified

by another governmental agency, whose *SBE* definitions are substantially the same as those contained in Subsection 1.15 or are more restrictive (*i.e.*, definitions requiring lower average annual gross receipts or fewer employees), then the *CCD* shall regard such certification as *prima facie* evidence of qualification for the *DSBP*. In such circumstances, the *CCD* shall have the right and duty to require supporting documentation to verify a *business'* *SBE* certification status.

- 2.06 Duration of certification. A *business'* *DSBP* certification is valid for two (2) years and must be renewed bi-annually.
- 2.07 Monitoring of status. Once a *business* is certified as a *DBE* and/or an *SBE*, the *CCD* shall periodically monitor that *business'* status to verify that the *business* continues to satisfy the requirements of certification for the applicable *DSBP* certification category(ies). A *DSBP*-certified *business* must immediately notify the *CCD* about any change in its circumstances that affects either the representations that it has made in its application materials or its status as a *DSBP*-certified *business*.
- 2.08 Misconduct will result in decertification and disqualification from the *DSBP*. The *CCD* shall decertify any *business* that either obtains its certification through fraud, deceit or misrepresentation or fails to report any changes that materially affect that *business'* qualification for certification. Upon such a finding, the *Purchasing Division* shall remove the name of the *business* from all *DSBP* vendors lists, maintained pursuant to Section 3.0 of this Finance Directive, for a period of three (3) years.
- 2.09 Procedure for appealing from a denial of *DSBP* certification. This Subsection establishes the exclusive procedure for an applicant *business* that seeks relief from a "Denial of *DSBP* Certification," issued pursuant to Subsection 2.03(d). Further, the procedure set forth in this Subsection is available only to an applicant *business* seeking relief from a "Denial of *DSBP* Certification." The procedure for appealing from a "Denial of *DSBP* Certification" is as follows.
- (a) Within fourteen (14) calendar days of the date of receipt of a "Denial of *DSBP* Certification," as described in Subsection 2.03(d), an applicant *business* may file with the *CCD* a written request for an informal discussion, the purpose of which is to permit the *business* to discuss its concerns about the denial. A "Denial of *DSBP* Certification" will not be modified or reversed at this stage of the appeal process.
  - (b) After the informal discussion, *CCD* shall issue a "Confirmation Notice" that outlines these subject matters:
    - (i) The issues discussed at and the outcome of the informal discussion and
    - (ii) The applicant *business'* appellate rights.

The *CCD* shall mail to the applicant *business* a copy of the "Confirmation Notice" by Certified Mail, Return Receipt Requested.

- (c) Only after it has exhausted the procedures set forth in Subsections 2.09(a) and 2.09(b), may an applicant *business* appeal from a "Denial of DSBP Certification." A typewritten or printed "Claim of Appeal" shall be filed with the *Human Rights Director* within fourteen (14) calendar days of the date of receipt of a "Confirmation Notice." A "Claim of Appeal" shall satisfy all of the following requirements:
  - (i) Include a detailed narrative of the all of the bases for reversal of the *CCD's* decision to deny *DSBP* certification. Any basis omitted from the "Claim of Appeal" is waived;
  - (ii) Include documentation supporting the applicant *business'* claim that it satisfies the requirements for *DSBP* certification;
  - (iii) Include a copy of the "Confirmation Notice," described in Subsection 2.09(b) of this Finance Directive;
  - (iv) Include a statement from the applicant *business* as to whether it desires an opportunity to discuss its appeal with the *Human Rights Director*, and
  - (v) Exclude any reliance on or reference to changes in the applicant *business'* ownership, operation and/or management occurring after the date of the "Denial of DSBP Certification."
- (d) A "Claim of Appeal" that does not substantially conform to the requirements of Subsection 2.09(c) of this Finance Directive may be dismissed by the *Human Rights Director* without a decision on the merits of the appeal.
- (e) Within twenty-one (21) calendar days of the date that the "Claim of Appeal" is received by the *Human Rights Director*, the *Human Rights Director*, or designee, shall issue a written statement disposing of the appeal. This statement shall be mailed to the applicant *business* by Certified Mail, Return Receipt Requested.
- (f) The decision of the *Human Rights Director*, or designee, is final and is subject neither to further appeals pursuant to Subsection 2.09 nor to the reconsideration procedure of Subsection 2.10. The *CCD* shall dismiss any filing that violates the provisions of this Subsection.

2.10 Procedure for reconsideration of a CCD decision other than a denial. This Subsection establishes the exclusive procedure for an applicant *business* that seeks review of certification determinations made by the CCD in a "Notice of DSBP Certification," issued pursuant to Subsection 2.03(c). To reiterate, the procedure established in this Subsection is not available to an applicant *business* that has received a "Denial of DSBP Certification," the appeal process for which is described above in Subsection 2.09. By way of example, a *business* that has been certified as a *DBE* or an *SBE*, but which is aggrieved because it was certified for fewer than all of the *Purchasing Division* Commodity Codes for which it sought certification may seek relief under this Subsection. The reconsideration procedure is as follows.

- (a) An applicant *business* may seek reconsideration in the following types of circumstances: (i) it has undergone substantive, documented changes in its ownership, operation and/or management; (ii) it has compelling and substantial proof that the CCD committed an error in processing the *business*' application for certification; or (iii) it was not certified in all of the DSBP certification categories or for all of the *Purchasing Division* Commodity Codes for which it sought certification. An applicant *business* may seek reconsideration only once per year, and it must include in its "Petition for Reconsideration" all of the bases upon which it seeks reconsideration. Any basis omitted from the "Petition for Reconsideration" is waived.
- (b) An applicant *business* shall file its typewritten or printed "Petition for Reconsideration" to the CCD no earlier than six (6) months after and no later than twelve (12) months after the date of "Notice of DSBP Certification." A "Petition for Reconsideration" submitted more than twelve (12) months after the date of a notice will not be reviewed and the applicant *business* will be required to re-apply for DSBP certification.
- (c) The certification guidelines established in this Finance Directive shall apply to the evaluation of the merits of a "Petition for Reconsideration."
- (d) The CCD's disposition of a "Petition for Reconsideration" is final and is subject neither to the appeal procedure of Subsection 2.09 nor to further reconsideration pursuant to Subsection 2.10. The CCD shall dismiss any filing that violates the provisions of this Subsection.

### 3.0 CREATION OF LISTS OF CERTIFIED BUSINESSES

3.01 Creation of lists of DSBP-certified businesses. The CCD shall establish and maintain a list of all DSBP-certified *businesses*. This list shall be distributed to the *Purchasing Division*, *contracting departments* and, upon request, private parties and non-City governmental agencies. The CCD may establish and collect a fee for the distribution of the certification lists to non-City entities, provided that such fee is approved by City Council as required by Section 9-507 of the Detroit City Charter.



- (a) Certification lists shall be updated and distributed on at least a monthly basis.
- (b) Certification lists shall include a list of decertified *businesses*.

3.02 **Creation of DSBP vendors lists.** The *Purchasing Division* shall create, maintain and update a separate *DSBP* vendors list for each commodity code included in the *Purchasing Division* Commodity Code Catalog, which is attached as Exhibit "A" hereto.

## 4.0 CONTRACT SELECTION

- 4.01 **Requirements of Executive Order No. 4.** The goal of Executive Order No. 4 is to award to *DSBP*-certified *businesses* thirty percent (30%) of the total dollar value of the City's contracts for goods and services to be awarded during each year.
- 4.02 **Contracting department to obtain from the CCD the current lists of DSBP-certified businesses.** Prior to preparing an *invitation for bids* or a requisition, the *contracting department* and the *Purchasing Division* shall review the current *DSBP* certification lists. The *DSBP* certification lists shall be used to identify contracts and *subcontracting opportunities* that can be assigned to the *DSBP*. A *contracting department* may not designate a contract for inclusion in the *DSBP* unless the list contains two or more certified *businesses* for the applicable *Purchasing Division* Commodity Code and commodity description indicated on the certification list.
- 4.03 **Subcontracting opportunities.** The *contracting departments* are strongly encouraged to designate *subcontracting opportunities* for inclusion in the *DSBP*. As to each such contract, the *contracting department* is to identify that percentage of the contract that is to be included in the *DSBP* as well as the *DSBP* certification category(ies).
- 4.04 **The Purchasing Director is to review and approve each contracting department's recommendations.** After reviewing a *contracting department's* recommendations, the *Purchasing Director* is either to concur in the recommendations or to revise the recommendations after consulting with the *contracting department*.
- 4.05 **Application of equalization percentages.** Section 18-5-2 of the Detroit City Code, relating to the equalization percentages, shall apply to *DSBP* contracts designated exclusively for *SBEs*.

## 5.0 BIDDING PROCEDURES

- 5.01 **Bid solicitation by contracting department.** *DSBP* contracts are to be processed in accordance with the *Purchasing Division's* ordinary bidding procedures. Bids are to be solicited from *businesses* in the appropriate *DSBP* certification category on the *DSBP* vendors list for the relevant *Purchasing Division* Commodity Code. A *business* must be certified by the *CCD* before it submits a bid on a *DSBP* contract and must have received

certification at least twenty-four (24) hours prior to submitting its bid.

5.02 Advertising. Advertising shall be the responsibility of the *Purchasing Division* except for *book type contracts*. As to *book type contracts*, advertising shall be the responsibility of the *contracting department*, and the *contracting department* shall provide a copy of the advertisement to the *Purchasing Division* at the same time as it submits the advertisement to the required newspapers and other applicable relevant publications, such as trade journals.

5.03 Required language in advertisements. The *Purchasing Division* and the *contracting departments* shall include the following language in their advertisements for *DSBP* contracts:

PURSUANT TO EXECUTIVE ORDER NO. 4, COMPETITION FOR THIS CONTRACT IS RESTRICTED TO BUSINESSES THAT HAVE BEEN CERTIFIED IN THE CATEGORY(IES) OF [DETROIT-BASED BUSINESSES] [OR] [SMALL BUSINESSES] BY THE CONTRACT COMPLIANCE DIVISION OF THE HUMAN RIGHTS DEPARTMENT OF THE CITY OF DETROIT. A BIDDER MUST BE CERTIFIED AT LEAST TWENTY-FOUR (24) HOURS BEFORE IT SUBMITS ITS BID.

5.04 Required language in contracts. The *Purchasing Division* shall insert the following language in all bid documents for *DSBP* contracts:

DETROIT-BASED BUSINESSES AND SMALL BUSINESSES PROGRAM. IT IS THE RESPONSIBILITY OF EACH BIDDER UNDER THIS PROGRAM TO OBTAIN CERTIFICATION FROM THE CONTRACT COMPLIANCE DIVISION OF THE HUMAN RIGHTS DEPARTMENT OF THE CITY OF DETROIT AT LEAST TWENTY-FOUR (24) HOURS BEFORE IT SUBMITS ITS BID. BIDS FROM UNCERTIFIED BUSINESSES SHALL BE REJECTED. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY BIDDER'S FAILURE TO OBTAIN CERTIFICATION PRIOR TO THE BID DUE DATE.

COMPETITION FOR THIS CONTRACT IS RESTRICTED TO BUSINESSES CERTIFIED AS [DETROIT-BASED BUSINESSES] [OR] [SMALL BUSINESSES] PURSUANT TO EXECUTIVE ORDER NO. 4.

5.05 Contractor status form. The *Purchasing Division* shall include the "Contractor Status Form," attached as Exhibit "B" hereto, with each bid package and shall verify that the bidder has submitted a completed "Contractor Status Form" with its bid materials.

5.06 Bid evaluation and award recommendations. An evaluation of a bidder's responsiveness and responsibility will be made either by the *Purchasing Division* or by the *contracting department*, at the option of the *contracting department*. The *CCD* shall confirm that the recommended bidder was certified at the time that it submitted its bid. Uncertified *businesses* are disqualified, their bids shall not be considered in the evaluation of bids, and they cannot be awarded contracts under the *DSBP*.

5.07 Award considerations for contracts on which multiple bids were received. If bids are submitted by two or more *DSBP*-certified *businesses*, then the contract shall be awarded to the *business* that is the lowest responsive, responsible bidder.

5.08 Award considerations for contracts on which a single bid was received. If only one bid is submitted, the contract shall be awarded to that *business* provided that that *business* is responsive and responsible and that its bid price is reasonable. The *Purchasing Division* or the *contracting department* shall evaluate whether a bid price is reasonable by considering the following factors:

- (a) The price of other recent contracts for the same or similar goods or services under the same or similar specifications; and
- (b) An allowance for a reasonable profit under prevailing market conditions.

The *Purchasing Director* shall have the authority to review any decision under this Subsection and to make the final determination as the reasonableness of a bid price.

5.09 Contractor default. In addition to the usual bases for default on a contract, a finding of misconduct pursuant to Subsection 2.08 shall be a basis for default on a *DSBP* contract. The *Purchasing Director*, after consulting with the *contracting department* and the Corporation Counsel, may default a *DSBP*-certified *business* for misconduct and may impose the usual remedies for default and/or may withhold payments under the contract(s) in question.

## 6.0 IMPREST CASH PURCHASES

6.01 Contracting departments to use *DSBP*-certified businesses for imprest cash purchases. To further the goals of Executive Order No. 4 and the *DSBP*, *contracting departments* are hereby directed to utilize, to the maximum extent practicable, for their imprest cash purchases *businesses* certified under the *DSBP*.

## 7.0 LIMITATIONS ON SUBCONTRACTING

7.01 General construction contractors to disclose identity of subcontractors. On any general construction contract awarded in whole or in part under the *DSBP*, the general contractor must submit with its signed bid a completed "DSBP Subcontractor Data Form" which requires for each named *DSBP subcontractor* the following: the scope of the work, the agreed price, the percentage of the total contract price the *subcontractor's*

price represents, and the *subcontractor's* signature. Each such *subcontractor* shall have been certified by the *CCD* at least twenty-four (24) hours before the bid is submitted. The general contractor also shall specify the total number of *DSBP*-certified *subcontractors*, the total contract price, the aggregate amount of the *subcontractors'* prices and the percentage of the total contract price that the aggregate amount of the *subcontractors'* prices represents. Further, the contractor shall sign the form. The "DSBP Subcontractor Data Form" and its instruction sheet are attached as Exhibit "C" hereto.

- 7.02 Subcontracting of DBE contracts, other than general construction contracts. Such contracts may be *subcontracted* only to other certified DBEs.
- 7.03 Subcontracting of SBE contracts, other than general construction contracts. Such contracts may be *subcontracted* only to other certified SBEs.
- 7.04 Subcontracting of combined DBE and SBE contracts, other than general construction contracts. Such contracts may be *subcontracted* only to other certified DBEs or certified SBEs.
- 7.05 Relief from the requirements of Section 7.0. Only upon a showing of substantial hardship by a contractor, as determined by the *Purchasing Director*, may the requirements of Section 7.0 be suspended. The *Purchasing Director* has exclusive authority to grant relief under this Subsection, and the *Purchasing Director* shall issue a written decision on all such requests.

## 8.0 REPORTING REQUIREMENTS

- 8.01 The *CCD* shall maintain and update statistics concerning *DSBP* certifications. On a quarterly basis, the *CCD* shall prepare and submit to the Mayor a report on the following areas:
  - (a) The total number of applications received for certification under the *DSBP*;
  - (b) The total number of certifications granted and denied for the *DSBP*;
  - (c) The total number of *DSBP* applications that remain open and pending at the end of the quarter (*i.e.*, certification neither granted nor denied);
  - (d) The same information as required by Subsections 8.01(a) to 8.01(c) for each *DSBP* certification category (*i.e.*, DBE and SBE); and
  - (e) The range and average time between the date of receipt of an application for certification under the *DSBP* and the date of disposition of the application (*i.e.*, certification either granted nor denied).

**8.02** The Purchasing Director shall maintain and update statistics concerning the DSBP program. For each fiscal year, the *Purchasing Director* shall prepare and submit to the Mayor a report on the following areas:

- (a) The number of *DSBP*-certified *businesses* awarded contracts and/or *subcontracts*;
- (b) The number of contracts and *subcontracts* awarded wholly or partially under the *DSBP*;
- (c) The *Purchasing Division* Commodity Code name and number for each contract and *subcontract* identified in response to Subsection 8.02(b);
- (d) The total dollar value of each contract and *subcontract* identified in response to Subsection 8.02(b);
- (e) The dollar value of that portion of each contract or *subcontract* awarded under the DSBP and the aggregate dollar value of those contracts and *subcontracts*; and
- (f) The percentage of the total dollar value of all contracts let by the *City* during the fiscal year that is represented by the response to Subsection 8.02(e).



DENNIS W. ARCHER, MAYOR  
CITY OF DETROIT  
EXECUTIVE OFFICE

1125 CITY-COUNTY BUILDING  
DETROIT, MICHIGAN 48226  
PHONE 313-224-3400  
FAX 313-224-4128

## EXECUTIVE ORDER NO. 4

**TO: ALL BOARDS, COMMISSIONS, DEPARTMENT HEADS AND ELECTED OFFICIALS**

**FROM: [REDACTED] MAYOR**

**DATE: OCTOBER 28, 1994**

**SUBJECT: UTILIZATION OF DETROIT-BASED BUSINESSES AND SMALL BUSINESSES**

Approximately a year and a half ago, the City of Detroit ordinance establishing the City's race-and-gender-based sheltered market program was found unconstitutional by the United States District Court in the aftermath of the United States Supreme Court's decision in City of Richmond v. J.A. Croson. As a result, the City was forced to abandon that program, which had set aside specific percentages of City contracts for minority-owned businesses and women-owned businesses.

The provision of jobs to Detroit residents, as well as the success of Detroit-based businesses and small businesses, nevertheless, are paramount goals of this administration.


City government has a significant interest in encouraging the creation of employment opportunities for its residents and in fostering the success of its resident businesses. Furthermore, because City government is a major purchaser of goods and

services, it has an opportunity to play a major role in the economic revitalization of the City. This City's budget for this fiscal year is \$2.2 billion, a substantial percentage of which will be used to acquire goods and procure services to equip the City to serve the needs of its citizens. Moreover, the City itself stands to gain from improvements in expanded job and business opportunities for Detroit residents and businesses through the additional tax revenues thereby generated.

It is the policy of this administration to develop opportunities for small and local businesses where possible, except as limited by the Charter of the City of Detroit. The purpose of this Executive Order is to direct City departments and agencies to implement specific purchasing goals for Detroit-based businesses and small businesses. The goal of this administration is to award thirty percent (30%) of the total dollar value of all contracts let by the City to Detroit-based businesses and small businesses, recognizing that the ability of individual departments to achieve this goal may vary as a function of the types of goods or services required and the availability of local and/or small businesses to perform any given contract.

For the purposes of this Executive Order, "Detroit-based" has the meaning assigned to it by Section 18-5-1 of the Detroit City Code, as follows:

**Detroit-based** shall mean the physical and economic relationship to this city determined by the payment of city income taxes on the contractor's net profits, city excise taxes, and city property taxes on a plant or office and equipment such as is ordinarily required for the performance of the contract bid upon or on other real or personal property in the city equivalent in value to such plant or



office and equipment, for not less than one taxable year immediately prior to the date of determination.

The term "small business" shall have that meaning assigned to it by the Finance Department based on the federal Small Business Administration's regulations and local economic conditions in and surrounding the City of Detroit.

This Executive Order is effective immediately. The Finance Director is hereby directed to prepare administrative guidelines for the implementation of this Executive Order within thirty (30) days. The administrative guidelines shall become effective within thirty (30) days of the date of this Executive Order.

All City departments and agencies are directed to identify suitable contracts and subcontracts for Detroit-based businesses and small businesses, and to review their contracting practices and procedures for implementation of this Executive Order. Responsibility for monitoring and enforcing the provisions of this Executive Order is committed to the Finance Department and such other City Departments that the Mayor may from time to time designate.



Mayor



## **CONTRACTOR STATUS (TO BE COMPLETED BY SERVICE PROVIDER)**

Place a "CHECK MARK" in the appropriate space in the second column to indicate the category in which certification has been obtained from the Contract Compliance Division of the Human Rights Department of the City of Detroit. In the appropriate space in the third column fill in the date on which the certification was received.

Type of Business	Check to indicate the category that describes the type of business	Indicate date certification was received from the Contract Compliance Division of the Human Rights Department of the City of Detroit
Detroit-based enterprise	XXXX	March 96
Small business enterprise		

**EXHIBIT B**

## DSBP SUBCONTRACTOR DATA FORM

Project Name: PC748 Baby Creek CSO Control Facility Purchasing Division File No.

Prime Contractor Name: Walbridge Aldinger Company Title: Assistant Vice President

Prime Contractor Signature: [Redacted]

Each subcontractor identified below shall be certified by the Contract Compliance Division of the Human Rights Department of the City of Detroit at least twenty-four (24) hours before an offer to provide professional services is submitted, and each contractor shall complete, sign and submit this form in accordance with the written instructions from the contracting department. Any changes after submission require the approval of the Purchasing Director.

Failure to comply with these instructions shall result in disqualification of the bid.

1. DBE/SBE Name: [Redacted] Address: [Redacted]

Scope of Work: General Conditions Detroit, MI 48226

Agreed Price: \$17,700,000 Percent of Contract: 38%

Date: 2/6/03

2. [Redacted] Address: [Redacted]

Scope of Work: [Redacted]

Agreed Price: [Redacted] Percent of Contract: [Redacted]

DBE/SBE Signature: [Redacted] Date: [Redacted]

3. DBE/SBE Name: [Redacted] Address: [Redacted]

Scope of Work: [Redacted]

Agreed Price: [Redacted] Percent of Contract: [Redacted]

DBE/SBE Signature: [Redacted] Date: [Redacted]

Total No. DBE/SBE's: [Redacted] Total Contract Amount: [Redacted]

Total DBE/SBE Amount: [Redacted] DBE/SBE Percentage: [Redacted]

EXHIBIT C

## EXHIBIT C

### OFFER OF PROFESSIONAL SERVICES INSTRUCTIONS FOR DSPBP SUBCONTRACTOR DATA FORM

In accordance with Executive Order No. 4, issued by Mayor [REDACTED] on October 28, 1994, this contract requires that a minimum of 30 % of the total contract dollar amount to be subcontracted to one of the following [The Purchasing Division shall mark the certification category(ies) that apply to this contract]:

- XXX Detroit-based enterprises  
       Small business enterprises

The proposed subcontractors that are Detroit-based enterprises ("DBE") or small business enterprises ("SBE") must be certified by the Contract Compliance Division of the Human Rights Department of the City of Detroit at least twenty-four (24) hours before an offer to provide professional services is submitted.

On the DSPBP Subcontractor Data Form, the Contractor shall provide the following information:

1. The name and address of each DBE and/or SBE subcontractor the Contractor proposes to use;
2. The scope of work for each DBE and/or SBE subcontractor;
3. The agreed price for each DBE and/or SBE subcontractor's work and the percentage of the total contract price that each subcontractor's price represents;
4. The signature of the principal of each proposed DBE and/or SBE subcontractor;
5. The total number of proposed DBE and/or SBE subcontractors;
6. The total contract price;
7. The aggregate amount of the DBE and/or SBE subcontractors' prices; and
8. The percentage of the total contract price that the aggregate amount of the DBE and/or SBE subcontractors' prices represents.

A completed DSBP Subcontractor Data Form must accompany the offer of each Contractor which seeks to be selected for a DSBP contract. Offers of professional services that do not include a completed DSBP Subcontractor Data Form shall be deemed non-responsive and shall be disqualified.

# EQUALIZATION ELIGIBILITY FORM

In accordance with Ordinance No. 31-99, any Detroit based firm shall be deemed a better bid than the bid of any competing firm which is not Detroit-based, whenever the bid of such competing firm shall be equal to or higher than the bid of the Detroit-based firm after the appropriate equalization percentage credit from the Equalization Allowance Table has been applied to the bid of the Detroit-based firm. **NOTE: IT IS THE VENDOR'S RESPONSIBILITY TO COMPLETE THIS FORM, PROVIDE ALL NECESSARY DOCUMENTATION AND RETURN IT WITH YOUR BID. FAILURE TO DO SO MAY RESULT IN EQUALIZATION NOT BEING APPLIED.**

Company Name [REDACTED]

PC 748

RFQ # \_\_\_\_\_

A vendor qualifies for equalization credit as per section 18-5-2 of the purchasing ordinance as follows:

## Vendor to check all categories which apply\*

- ☒ Detroit Based Business (as certified by the City of Detroit Human Rights Department prior to bid due date. Proof of certification must be submitted with each and every bid response.)
- ☒ Detroit Based Business with Headquarters in Detroit (as certified by completion of the affidavit attached to bid documents and proof of certification as a Detroit Based Business prior to bid opening. The affidavit must be completed and certification returned with each and every bid for consideration)
- ☐ Detroit Resident Business (as certified by completion of the affidavit attached to bid documents. The affidavit must be completed and returned with each and every bid for consideration)
- ☐ Detroit Based Small Business (as demonstrated by furnishing proof certification by the City of Detroit Human Rights Department. Proof of certification must be submitted with each and every bid for consideration.)
- ☐ Detroit Based Micro Business Concern (as certified by completion of the affidavit attached to bid and proof of certification as a Detroit Based Business. The affidavit and certification must be completed and returned each and every bid for consideration)
- ☐ Joint Venture OR ☐ Mentor Venture (You may only select one. One of the parties to the joint or mentor venture must be a certified Detroit Based Business prior to bid due date in order to receive equalization credit as a joint or mentor venture. Proof of certification by the City of Detroit Human Rights Department along with a copy of the Joint or Mentor Venture agreement between the parties involved is required.)

\*The information submitted to substantiate Equalization Eligibility is subject to verification and acceptance by the City. Should it be found that the vendor is not eligible to receive equalization credit it will not be applied. Should it be found that information submitted has been falsified the vendor may be placed in Default by the City for up to a three year period at the discretion of the City of Detroit Finance Department - Purchasing Division.

**TABLE I**  
Equalization Allowance for Detroit-based business and/or Detroit Resident Business

DOLLAR VALUE	DETROIT BASED	DETROIT RESIDENT
Up to \$10,000.00	5%	5%
\$10,000.01 to \$100,000.00	4%	4%
\$100,000.01 to \$500,000.00	3%	3%
\$500,000.01 and over	2%	2%
Detroit Based Business w/Headquarters in Detroit	3%	

**TABLE II**

\*Equalization allowance for Detroit Based Small Business, Detroit Based Micro Business, Joint Venture, Mentor Venture:

Category	Equalization Percentage
Detroit Based Small Business	1%
Detroit Based Micro Business Concern	2%
Joint Venture	2%
Mentor Venture	1%

**AFFIDAVIT OF ELIGIBILITY FOR EQUALIZATION CREDIT  
(Detroit Resident Business/Detroit Based Business  
w/Headquarters In Detroit/Detroit Based Micro Business)**

**THIS AFFIDAVIT MUST BE COMPLETED, NOTARIZED AND  
SUBMITTED WITH EACH AND EVERY BID RESPONSE FOR  
CONSIDERATION**

The undersigned hereby swears or affirms that all statements made with respect to eligibility for the provision of goods and/or services on the above named vendor are true and correct to the best of my knowledge. The undersigned further attests that its information provided is valid as of the date of bid submission.

Instructions: This affidavit should be filled out by firms eligible to receive equalization credit as any of the following: 1) Detroit Resident Business 2) Detroit Based Business w/Headquarters in Detroit 3) Detroit Based Micro Business. Initial each section for which the firm is eligible to receive credit and provide any information the applicable section(s) requires. Make sure that the form is filled out completely, notarized, and included with your bid response. Note: This is a two-sided form. Both sides must be filled out completely.

**\_\_\_\_\_ Detroit Based Micro Business**

**Type of Business:**

☐ Manufacturing ☐ Retail ☐ General Construction  
☐ Wholesale ☐ Service

Number of Employees \_\_\_\_\_

Amount of Annual Gross Receipts \$ \_\_\_\_\_

**THIS AFFIDAVIT IS A TWO SIDED FORM  
BOTH SIDES MUST BE COMPLETED IN ORDER  
TO BE CONSIDERED FOR EQUALIZATION  
CREDIT FOR CATEGORIES REFERENCED ON  
THIS FORM**

**\_\_\_\_\_ Detroit Resident Business**

Total number of persons employed by the firm (including all full-time & part-time, owners, officers, managers, and support staff both professional & non-professional is \_\_\_\_\_.

Total number of employees who are residents of the City of Detroit is: \_\_\_\_\_. Percentage of employees who are residents of the City of Detroit is \_\_\_\_\_ %

The undersigned further swears or affirms that the following documents have been presented by all Detroit employees and will be maintained by the DRB vendor for a period of three (3) years upon completion of the contract bid upon. One (1) document from Group A or two (2) documents from Group B are to be submitted upon request by the City:

Group A: 1) Michigan Driver's License 2) Michigan I.D. Card 3) Prior Year City of Detroit Resident Income Tax Return

Group B: 1) W-4 Forms 2. Voter Registration Card 3) Current utility bill with the employee's name and Detroit street address indicated thereon. 4) Affidavit from neighbor or other disinterested party.

XX

**\_\_\_\_\_ Detroit-Based Business w/Headquarter in Detroit**

Phone \_\_\_\_\_ Headquarters 313-963-8000  
613 Abbott St Detroit, MI 48226

Street Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_  
Names of Chief Executive Officer and High Level Managerial employees who have offices and perform management functions in Detroit.

Name	Title
See Attached	

**VENDORS REQUESTING EQUALIZATION CREDIT AS A DETROIT BASED MICRO BUSINESS AND/OR A DETROIT BASED BUSINESS W/HEADQUARTERS IN DETROIT MUST, IN ADDITION TO COMPLETING THIS AFFIDAVIT INCLUDE WITH THEIR BID RESPONSE PROOF OF CERTIFICATION AS A DETROIT BASED BUSINESS IN ORDER TO RECEIVE EQUALIZATION CREDIT FOR THE CATEGORIES REFERENCED IN THIS PARAGRAPH.**

Questions regarding certification should be directed to the City of Detroit Human Rights Department at 313.224.4505.

The City reserves the right to verify information submitted and request additional documentation if it feels it is necessary to do so.

The information submitted to substantiate Equalization Eligibility is subject verification and acceptance by the City. Should it be found that the vendor is not eligible to receive equalization credit it will not be applied. Should it be found that the information submitted has been falsified the vendor [REDACTED] City for up to a three-year period at the discretion of the City of Detroit Finance Department-Purchasing D [REDACTED]

Print Name of Affiant: [REDACTED]

Signature of Affiant: [REDACTED]

Company Name: Walbridge Aldinger Company

Subscribed and sworn before me this day: February 6th 2003  
Month Date Year

[REDACTED] County, Michigan Commission Expiration Date 03/11/2007

Notary Signature [REDACTED]

Print Name of Notary [REDACTED]

IF AVAILABLE, PLEASE PLACE NOTARY STAMP HERE

DOMONIQUE L. TOBIAS  
NOTARY PUBLIC WAYNE CO., MI  
MY COMMISSION EXPIRES Mar 11, 2007

**KWAME M. KILPATRICK, MAYOR**



**CITY OF DETROIT**

**HUMAN RIGHTS DEPARTMENT**

**WALBRIDGE ALDINGER COMPANY**

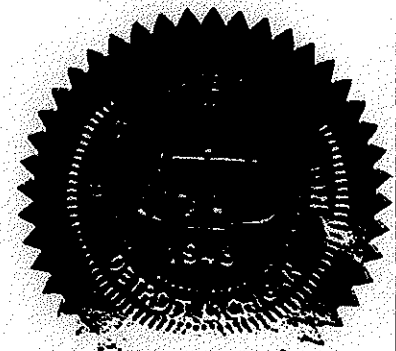
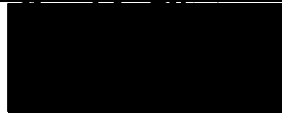
is certified as a **Detroit Based Business (DBB)** with the City of Detroit. Unless this certification is revoked, this company is eligible to bid for and be awarded City of Detroit Contracts as specified in Executive Order Number 4.

**This Certification will expire on: April 23, 2004**

**Identification Number 39-95**



, Director







CITY OF DETROIT  
HUMAN RIGHTS DEPARTMENT

October 22, 2002

[REDACTED]  
Director, Business Development  
Walbridge Aldinger Company  
613 Abbot Street  
Detroit MI 48226

Re: City of Detroit Certified Business Register  
Detroit Headquarter Designation

Dear [REDACTED]

The City of Detroit Human Rights Department is currently providing this letter as verification, based on recent documentation submitted to this Department by Walbridge Aldinger, in concurrence with the items selected on the application, that this applicant is in fact a Detroit Headquartered and Detroit Based Business. The Walbridge Aldinger Company listing as a Detroit Headquartered Business will be included in the Certified Business during the next appropriate update of the Certified Business Register.

Should you have further questions contact [REDACTED] at [REDACTED]

Sincerely,

[REDACTED]  
Principal Governmental Analyst  
Contract Compliance Division

[REDACTED] MAYOR

Officers and Directors of  
Walbridge Aldinger 2003

[REDACTED]  
*Executive Committee Chairman  
Director*

[REDACTED]  
*Chairman & CEO  
Director*

[REDACTED]  
*President & COO  
Director*

[REDACTED]  
*Vice Chairman  
Director*

[REDACTED]  
*Executive Vice President  
Director*

[REDACTED]  
*Group Vice President, Treasurer & CFO  
Director*

[REDACTED]  
*Senior Vice President*

[REDACTED]  
*Vice President*

[REDACTED]  
*Vice President General Manager*

[REDACTED]  
*Vice President*

[REDACTED]  
*Group Vice President*

[REDACTED]  
*Group Vice President*

[REDACTED]  
*Group Vice President*

[REDACTED]  
*Vice President*

[REDACTED]  
*Vice President*

[REDACTED]  
*Vice President/General Manager*

[REDACTED]  
*Vice President - Human Resources*

[REDACTED]  
*Vice President*

[REDACTED]  
*Group Vice President*

[REDACTED]  
*Vice President*

[REDACTED]  
*Assistant Vice President*

[REDACTED]  
*Assistant Vice President*

[REDACTED]  
*Vice President, General Counsel*

# **SPECIAL CONDITIONS**

(REVISED 30-OCT-01)

1. **Ordinances/Definitions.** Copies of related ordinances, executive orders, and definitions of all terms. "Detroit-Based Business," "Minority" and "Resident" are available upon request by contacting the Office of the City Clerk at Room 200 Coleman A. Young Municipal Center, Detroit, MI 48226, 313.224.3270. Vendors requesting a copy of the Purchasing Ordinance effective 16-APR-00 should refer to Ordinance #3199 when requesting additional information.

The following definitions shall apply to the Formal Bid document and all attachments:

**City** - The City of Detroit acting through the Purchasing Director

**CCD** - Contract Compliance Division of the City of Detroit's Finance Department

**Bidder** - The person or entity so named in the Formal Bid Document, or their authorized representative.

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**EFFECTIVE APRIL 16, 2000 REQUIREMENTS FOR RECEIVING EQUALIZATION CREDIT HAVE BEEN REVISED.** Please review the following definitions and requirements for certification carefully.

**Detroit-Based Business (DBB)** – means a business which pays City income taxes on the business's net profits and pays City property taxes on 1) a plant or office and equipment which are ordinarily required for the furnishing of the goods or the performance of the services required by the contract and referred to in the application for certification as Detroit-based business or on 2) other real or personal property in the City equivalent in value to such plant or office and equipment, for not less than one (1) taxable year immediately prior to the date of the application for certification. In addition, a Detroit-based business shall satisfy three (3) of the following eight (8) criteria:

1. Provide verification that an existing inventory of the product(s) which the business offers to the City is physically located at a City site.
2. Provide verification of the ability of the business to service/repair product(s) to be sold to the City at a City site.
3. Provide verification that the business has an adequate number of employees based at its City site to perform the services indicated in its application for certification.
4. Headquarters located within the City
5. Provide references, licenses or other means of verifying to the City that the services the firm offers have been provided at a City site for at least one (1) year prior to the date of application.

6. Provide documentation that the majority (51%) of the firms employees working at its City site are Detroit residents.
7. Provide verification that the firm has physical resources and ability to provide the services indicated in its application for certification at a location with the City.
8. 51% of full-time employees including chief officer and managers regularly work and conduct business in the City.

The firm submitting the bid shall submit with their bid proof of certification as a Detroit Based Business.

**Headquarters** – Means the place where the chief executive officer and highest-level managerial employees of a business have their offices and perform their management function.

**Micro Business Concern (MBC)** – Means a business, which is one (1) of the following:

1. A manufacturing business which has no more than fifty (50) employees; or
2. A general construction business which has annual gross receipts of not more than one million seven hundred thousand dollars (\$1,700,000.00); or
3. A specialty construction business which has annual gross receipts of not more than seven hundred thousand dollars (\$700,000.00)
4. A wholesale business which has no more than ten (10) full-time employees; or
5. A retail business which has annual gross receipts of not more than five hundred thousand dollars (\$500,000.00); or
6. A service business, other than professional services, which has annual gross receipts of not more than five hundred thousand dollars (\$500,000.00)

**Note:** A business which is an affiliate or a subsidiary of any entity that is not eligible for certification as a micro business concern shall not be certified as a micro business concern.

**Small Business Concern (SBC)** – Means a business which:

1. Has been in existence and operating for at least one (1) year prior to the date of application for certification as a small business concern; and
2. Does not meet the definition of a micro business concern, as defined in this division, and
3. Is one (1) of the following:
  - a. A manufacturing business which, for the three (3) fiscal years preceding the date of application for certification has provided full-time employment to not more than five hundred (500) persons; or

- b. A general construction business which, for the three (3) fiscal years preceding the date of application for certification, has average annual gross receipts of not more than seventeen million dollars (\$17,000,00.); or
- c. A specialty construction business whose average annual gross receipts have not exceeded seven million dollars (\$7,000,000.00) in the three (3) fiscal years preceding the date of application for certification; or
- d. A wholesale business which, for three (3) fiscal years preceding the date of application for certification, has provided full-time employment to not more than one hundred (100) persons; or
- e. A retail business which, for the three (3) fiscal years preceding the date of application for certification, has average annual gross receipts of not more than five million dollars (\$5,000,000.00); or
- f. A service business, other than professional, which, for the three (3) fiscal years preceding the date of application for certification. Has average gross receipts of not more than five million dollars (\$5,000,000.00) or
- g. A professional services business which for the three (3) fiscal years preceding the date of application for certification has had average gross receipts or not more than three million dollars (\$3,000,000.00)

**Note:** A business which is an affiliate or subsidiary of any entity that is not eligible for certification as a small business shall not be certified as a small business.

**Detroit-Based Small Business** – Any business which meets the definitions of Detroit-based business and small business concern as certified by the City of Detroit Human Rights Department prior to bid due date. The firm submitting the bid shall submit with their bid proof of certification as a Detroit-Based Small Business.

**Detroit Based Micro Business Concern (DBMBC)** – Means a business which meets the definitions of Detroit-based business concern and a micro business concern. The firm submitting the bid shall fill out completely and have notarized and submit with their bid the *Affidavit of Eligibility for Equalization Credit* in addition to furnishing proof of certification as a Detroit Based Business in order to receive equalization credit as a Detroit-Based Micro Business Concern.

**Detroit Resident Business (DRB)** – Means any business which employs a minimum of four (4) employees, at least fifty-one (51%) percent of which are City residents. If your firm qualifies to receive equalization credit as a Detroit Resident Business then the *Affidavit of Eligibility for Equalization Credit* must be filled out completely, notarized, and returned with your bid.

**Detroit Based Business w/Headquarters in Detroit** – Any business which meets the definition of Detroit Based and Headquarters. The firm submitting the bid shall fill out completely and have notarized and submit with their bid the *Affidavit of Eligibility for Equalization Credit* in addition to furnishing proof of certification as a Detroit Based Business in order to receive equalization credit as a Detroit-Based Business w/Headquarters in Detroit.

**Joint Venture** – Means a joint venture of separate firms, one of which is a DBB, DBSB, DRB or DBMBC, which has been created to perform a specific contract, and is evidenced by a written agreement which provides at minimum that the DBB, DBSB, DRB, or DBMBC:

1. Is substantially included in all phases of the contract including, but not limited to, bidding and staffing;
2. Provides at least fifty-one percent (51%) of the total performance, responsibility, and project management of a specific job;
3. Receives at least fifty-one (51%) of the total remuneration from a specific contract; and
4. Shares profits and losses

**Mentor Venture** – Means a joint venture of separate firms, one of which is a DBB, DBSB, DRB or DBMBC, which has been created to perform a specific contract, and is evidenced by a written agreement which provides at minimum that the DBB, DBSB, DRB, or DBMBC:

1. Is substantially included in all phases of the contract, including, but not limited to, bidding and staffing;
2. Provides at least thirty (30%) of the total performance, responsibility, and project management of a specific job;
3. Receives at least thirty percent (30%) of the total remuneration from a specific contract; and
4. Shares in profits and losses

Categories which require certification must be certified by the City of Detroit Human Rights Department at time of bid submission. If a vendor(s) is not certified at the time of bid submission then equalization credit shall not be applied. For information regarding Certification call 313.224.4950. Failure to submit proper documentation with bid response may result in equalization credit not being applied.

Vendors are ***strongly*** encouraged to make application for certification for all applicable categories. The certification process is lengthy and involved. Applications are closely scrutinized to determine eligibility of firms. Applications are processed in order of receipt.

**PROOF OF ELIBILITY TO RECEIVE EQUALIZATION CREDIT MUST BE SUBMITTED WITH EACH AND EVERY BID SUBMITTED TO THE CITY OF DETROIT.**

- 1.0 Eligible Bidders. An "X" below indicates the classification of bidders that the City has determined to be eligible to compete for this contract.
- 1.1 Competition for this Contract is open to all qualified bidders. ( )
- 1.2 Competition for this Contract is restricted per Ordinance No. 52-H to Detroit-Based Businesses. ( )
- 2.0 Subcontractor Utilization Requirements. The City has determined that \_\_\_\_\_ % of the total Contract amount shall be subcontract to MBE's who have obtained certification from the Contract Compliance Division (CCD) prior to bid due date. ( )
- 3.0 Minority and Resident Hiring. (Executive Order No. 22) The worker hours on this Contract shall be performed by no less than 50% bona fide City residents, no less than 25% minorities and at least 5% women. ( )

ALL INFORMATION PROVIDED IN RESPONSE TO THE INVITATION FOR BID IS SUBJECT TO VERIFICATION AND ACCEPTANCE BY THE CITY OF DETROIT. IF IT IS FOUND THAT INFORMATION SUBMITTED IS NOT VALID THE VENDOR MAY BE SUBJECT TO BEING PLACED IN DEFAULT AND/OR BID REJECTION AS DETERMINED BY THE CITY OF DETROIT PURCHASING DIRECTOR.

Seaboard Surety Company  
St. Paul Fire and Marine Insurance Company  
St. Paul Guardian Insurance Company  
St. Paul Mercury Insurance Company

United States Fidelity and Guaranty Company  
Fidelity and Guaranty Insurance Company  
Fidelity and Guaranty Insurance Underwriters, Inc.

22423

Power of Attorney No.

Certificate No. 1512345

**KNOW ALL MEN BY THESE PRESENTS:** That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, and that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, and that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, and that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

[Redacted] and [Redacted]

Conshohocken

Pennsylvania

of the City of \_\_\_\_\_, State \_\_\_\_\_, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and sealed this 3rd day of October, 2002

Seaboard Surety Company  
St. Paul Fire and Marine Insurance Company  
St. Paul Guardian Insurance Company  
St. Paul Mercury Insurance Company

United States Fidelity and Guaranty Company  
Fidelity and Guaranty Insurance Company  
Fidelity and Guaranty Insurance Underwriters, Inc.



[Redacted]

Vice President

[Redacted]

State of Maryland  
City of Baltimore

Assistant Secretary

On this 3rd day of October, 2002, before me, the undersigned officer, personally appeared Peter W. Carman and [Redacted], who acknowledged themselves to be the Vice President and Assistant Secretary, respectively, of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc.; and that the seals affixed to the foregoing instrument are the corporate seals of said Companies; and that they, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the names of the corporations by themselves as duly authorized officers.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 1st day of July, 2006.



[Redacted]

[Redacted] Notary Public



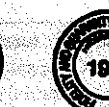
This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. on September 2, 1998, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that in connection with the fidelity and surety insurance business of the Company, all bonds, undertakings, contracts and other instruments relating to said business may be signed, executed, and acknowledged by persons or entities appointed as Attorney(s)-in-Fact pursuant to a Power of Attorney issued in accordance with these resolutions. Said Power(s) of Attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman, or the President, or any Vice President, or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the foregoing officers and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Attorney(s)-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and subject to any limitations set forth therein, any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is validly attached; and

**RESOLVED FURTHER**, that Attorney(s)-in-Fact shall have the power and authority, and, in any case, subject to the terms and limitations of the Power of Attorney issued them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, Thomas E. Huibregtse, Assistant Secretary of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I hereunto set my hand this 6th day of February, 2003



[Redacted Signature]

[Redacted Name] Assistant Secretary

To verify the authenticity of this Power of Attorney, call [Redacted] and ask for the Power of Attorney clerk. Please refer to the Power of Attorney number, the above-named individuals and the details of the bond to which the power is attached.

# Financial Statement – December 31, 2001

## Seaboard Surety Company

### Assets

Bonds	\$188,111,516
Stocks	39,010,096
Cash on Hand/Deposit	144,351
Short Term Investments	3,366,166
Agents' Balances	19,296,393
Funds Held Dep. with Reins. Co.	1,321,071
Reinsurance Recoverable	2,069,533
Fed. and Foreign Income Tax Rec.	375,226
EDP Equipment	217,283
Accrued Interest & Dividends	2,796,550
Receivable from Affiliates	337,652
Equity/Deposits/Pools & Assoc.	499,278
Other Assets	<u>18,920</u>

### Liabilities, Surplus & Other Funds

Losses	\$ 74,118,726
Reins. Payable on Paid Losses	427,693
Loss Adjustment Expenses	17,351,091
Contingent Commissions	618,388
Other Expenses	1,299,264
Taxes, Licenses and Fees	752,742
Unearned Premiums	22,297,186
Ceded Reinsurance Premiums Payable	1,867,337
Funds Held – Reins. Treaties	2,330,336
Remittances and Items not Alloc.	604,731
Drafts Outstanding	2,321,976
Other Liabilities	<u>3,192,702</u>

TOTAL LIABILITIES 127,182,271

Capital Paid Up 5,000,000  
Surplus 125,381,764

Surplus as Regards Policyholders 130,381,764

TOTAL ASSETS \$257,564,035

TOTAL LIABILITIES & SURPLUS \$257,564,035

Securities carried at \$6,389,893 in the foregoing statements, are deposited as required by law.

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF RAMSEY )

Assistant Vice President – Financial Reporting, of the Seaboard Surety Company, being duly sworn, deposes and says that [REDACTED] is the above described officer of said company; that said company is a corporation duly organized, existing and engaging in business as a surety company under and by virtue of the laws of the State of New York, and has duly complied with all requirements of the laws of said state applicable to said company and is duly qualified to act as surety under such laws; that the above is a true statement of the assets and liabilities of said company of the 31<sup>st</sup> day of December, 2001.

Subscribed and sworn to before me this 15th day of March, 2002.

[REDACTED]  
Assistant Vice President – Financial Reporting

